

EXHIBIT 104

Declaration of Merrick Osborne

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CASE NO. 1:14-CV-954**

**STUDENTS FOR FAIR
ADMISSIONS, INC.,**

Plaintiff,

v.

**UNIVERSITY OF NORTH
CAROLINA et al.,**

Defendants.

DECLARATION OF MERRICK OSBORNE

DECLARATION OF MERRICK OSBORNE

I, Merrick Osborne, hereby make this declaration from my personal knowledge and, if called to testify to these facts, could and would do so competently:

Background

1. I am a Black male.
2. I am from South Charlotte, North Carolina. I went to Ardrey Kell High School, a public high school in Charlotte. Before moving to South Charlotte, I lived in Portland, Oregon with my family until I was about 14.
3. I have a younger sister who is currently enrolled at Howard University, a historically black university in Washington, DC.
4. I graduated from The University of North Carolina at Chapel Hill ("UNC-CH" or "University") in 2016 with a major in Psychology and minors in Business Administration and Spanish for the Professions with a health focus.
5. At UNC-CH, I was the first Black male president of the Carolina Union Activities Board ("CUAB"), an organization that provides and sponsors diverse programs for the entire student body. I was also the Vice Chair of the Carolina Union Board of Directors.
6. Additionally, at UNC-CH, I served as co-chair of Diversity and Inclusiveness in Collegiate Environments ("DICE"), a campus organization that aims to change the campus climate through innovative initiatives that promote diversity awareness.
7. I was also vice president of the Mu Zeta Chapter of Alpha Phi Alpha Fraternity, Inc., a black fraternity.
8. I served as secretary for the UNC-CH Caribbean Student Organization. My grandfather is from Barbados so I was interested in learning more about that aspect of my identity.
9. While at UNC-CH, I conducted research with the Moore Undergraduate Research Apprenticeship Program ("MURAP") and the Ronald E. McNair Post-Baccalaureate Achievement

Program ("McNair Scholars Program"). The McNair Scholars Program is a federal program designed to prepare undergraduate students for doctoral studies through involvement in research and other scholarly activities. The focus of my research was on improving the experiences of African-American students through an understanding of psycho-social measures. In particular, I focused upon what makes students perform well and the concept of homophily, which is the idea that people who share a similar identity gravitate toward one another. I was also a research assistant in Professor Enrique Neblett's African-American Youth Wellness Lab and in the Behavior Lab at the UNC-CH Kenan Flagler School of Business. The Behavior Lab helps support and promote research on judgment and decision making, as well as other work related to individual, group, and organizational phenomena.

10. While on campus, I was an orientation presenter for Carolina Leadership Development, giving weekly 90-minute presentations. I presented to first-year students about opportunities and leadership development on campus. I also advised first-year students about how to handle the college experience and avoid becoming overwhelmed.

11. At UNC-CH, I was Captain of Men's Club Lacrosse team and the only Black player for part of my experience with the Club Lacrosse team. I also served as a practice player to help train the UNC-CH Women's Varsity Lacrosse Team. In 2013, the Women's Varsity Lacrosse Team won a national championship. I also volunteered as a lacrosse goalie coach for a local high school, East Chapel Hill High.

12. At UNC-CH, I was accepted into the Order of the Golden Fleece and the Order of the Grail-Valkyries. The Order of the Golden Fleece is the University's oldest and highest honorary society, and those eligible for selection must possess exemplary character and must have made a significant, lasting contribution to the University. I was selected for the Order of the Golden Fleece for my mentorship as a Black male based upon my stewardship to the Carolina community, including my service as CUAB president. The Order of the Grail-Valkyries recognizes students and faculty of outstanding character who have made significant contributions to the University's academic climate through excellence in scholarship, dynamic

leadership, and innovative service. I was selected for the Order of the Grail-Valkyries for my service to the Carolina community, including my research with Professor Neblett and MURAP.

13. Currently, I am a Social Science Research Coordinator at the Stanford Graduate School of Business Organizational Behavior Lab. I plan to pursue a doctorate degree in Organizational Behavior.

My Experience as Minority Student at UNC-CH

14. As a Black male, I faced many challenges at UNC-CH. Because there were few Black males on campus, I was concerned that without my voice, my experience, those like me would not be heard.

15. The sheer numbers were daunting. Sometimes, in classes of 200 or more, I would be the only person of color or the only Black male. In fact, I dropped my business major because I felt ostracized. I distinctly remember not seeing anyone like me in the business school building on the days when I had classes there.

16. One moment in particular stands out. In the spring of 2015, the video of the Sigma Alpha Epsilon ("SAE") fraternity chapter from the University of Oklahoma performing a racist chant went viral. At the time, I was taking a class at UNC-CH focused on ethics and morality in business. My professor brought up the topic of the SAE video and asked the students to share their thoughts. I noticed I was the only student of color in the class, and I decided that I needed to set the tone for the conversation. I knew that if I made my presence as a Black male known, there was a lower probability of my having to deal with prejudice. I remember saying something fairly generic, but I felt like I still got my point across. I remember being proud of myself for speaking up and handling it that way. In response, a girl in the front of the room said "I don't get why it is a big deal. It's just a song." I had no one to even share a look with. I know the professor was taken aback by the comment as well. I raised my hand again to explain that whether or not the SAE fraternity brothers meant what they were saying – they were talking about homicide. I had to be careful to not fall into the "angry-Black" stereotype and still feel like I could address the reality of the situation. I felt compelled to speak up, and I also

recognized that I was likely the only one that could bring the perspective those students needed to hear.

17. It is hard to be looked to as the one who has to do the “teaching” in formal settings like the classroom. Similarly, it is hard to have pressure to represent a particular perspective in classroom discussions or social settings. As the only Black male in the classroom, I do not have the psychological safety of being supported by someone who shares my sentiments about society. But I also recognize that I needed to be able to do that. I wish I had had more minority peers who could walk through the experience with me.

18. I do not feel like I would have had an adequate liberal arts education without having the opportunity to interact with people who are not like me. For me, it taught me how to be resilient and a better global citizen. The efficacy of my work increased as my perspective grew. But at the end of the day, the absence of like individuals certainly was a challenge.

19. I have struggled with feeling valued by the University. Students who share my ancestral history are often only valued in the capacity of generating entertainment and revenue as athletes. Sharing an academic space with other Black people and other people of color is a reminder that the institution to which I pay my tuition values my education and my contribution to the Carolina community.

20. I understand UNC-CH was not built for Black people, but now it has to be a place where Black people are supposed to belong. I truly hope that one day, we can be valued as the scholars we are capable of becoming.

21. At UNC-CH, I graduated from the Honors College, whose slogan is “Come Here, Go Anywhere.” My experience as a student drove me to realize that where we *go* is just as important from as where we *come from*, and I would want for my children to *go* to a place that values and builds people as they *come*. And we all come with potential. We all come deserving to get an education.

22. One of the extracurricular activities in which I was involved was the Mu Zeta chapter of Alpha Phi Alpha Fraternity, Inc. While it is a group composed exclusively of black

men, it became a haven to understand diversity on campus. We shared conversations with Latinx students, the Pride community, and other marginalized groups of students. We shared laughs and good times, but we also shared pain. The classroom was not the most welcoming environment. It was critical to my success to have that opportunity to relate to people who identified with my experience.

23. Students of color sometimes have to retreat to stay psychologically safe since not every person in power is our ally. That is a function of the culture of the University, but also because there are not enough of us (students of color) to facilitate our own growth.

24. Part of my job as a leader at UNC-CH was to be visible. Part of my goal as “Merrick” was always to support people like me, and I think from my leadership positions I was able to do that. I think about that often – if I did not go to UNC-CH, how different would this campus be?

25. It is important to me to be in a space filled with a plethora of perspectives – some competing – because the best ideas and movements have grown from contrast. As a student, you cannot get full development of a mind and soul unless you hear ideas that you disagree with. At UNC-CH, it is hard to find competing ideals because of the culture of the school and the makeup of the student body. Having more people of color would benefit the University, increase the intentional learning of the students, and ultimately enhance the productivity of the institution.

26. UNC-CH is an incubator for success because it attracts students who have the capacity to do great things. However, many in-state residents come from broken high schools that are part of a broken state educational system. UNC-CH can help lift those students as they climb. It cannot do that well right now because its most critical resource – students of color – is depleted. The role of the University is to increase the capacity of its students to be impactful and intentional global citizens. You can only do that when you bring in people who have not yet seen the globe. Their perspective and voice matter, even if their high school and the system that their high school is in does not remind them of that.

My Cross-Cultural Interactions at UNC-CH

27. With the right mentorship and encouragement, and after finding the right support, I was able to turn frustration into leadership and take advantage of many opportunities to contribute to the larger campus community.

28. At UNC-CH, I had many opportunities to interact with students from different backgrounds and ethnicities, including as a campus leader.

29. I was the first African American male president of CUAB. At CUAB, my role was to discuss common problems among the members of the Board, study the techniques of effective group work, and serve the University community. I had to responsibly use student fees to formulate social, cultural, entertaining, and educational programs. I believe I was successful in that endeavor because of my background and the support of Black Board members. I also was able to hear the perspectives of immigrants and other students who saw the campus differently. Our perspectives nicely complemented those of the white Board members. CUAB became a safe space because we could critically challenge each other and, thus, the status quo.

30. My goal at CUAB was to lift as I climb. I wanted to make sure that the events that CUAB hosted, which welcomed students of all backgrounds, either encouraged discussion about racism and prejudice or made people of color feel like they had a home. In that way, I feel that I was able to help expose my classmates at UNC-CH to impactful education regarding diversity issues. Leading a board of people that had different experiences than I did but still had similar obstacles was one of the most liberating challenges that I accepted.

31. As isolating as UNC-CH can be, the greatest growth I had was when I came together with my peers and we shared our perspectives.

32. If we want for our student to be part of a competitive market, they need to be fluent in the languages of the world and some of them we may not easily understand without adding those voices to the student experience.

Conclusion

33. For all of these reasons, I believe that UNC-CH still has substantial room for improvement in terms of bringing students of color to campus. More diversity at UNC-CH, not less, is critical to make sure the University is inclusive and welcoming to students of color and that the University strives for greatness and does not remain stagnant in today's global world.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 6/12/2017


Merrick Osborne